



Request for Proposal 06-X-38510

For: Foods: Juices, Frozen, - DSS

Event	Date	Time
Bidder's Electronic Question Due Date (Refer to RFP Section 1.3.1 for more information.)	02/06/06	05:00 PM
Mandatory Pre-bid Conference (Refer to RFP Section 1.3.3 for important details about the new electronic bid option.)	Not Applicable	
Mandatory Site Visit (Refer to RFP Section 1.3.3 for more information.)	Not Applicable	
Bid Submission Due Date (Refer to RFP Section 1.3.2 for more information.)	02/22/06	2:00 PM

Dates are subject to change. All changes will be reflected in Addenda to the RFP posted on the Division of Purchase and Property website.

Small Business Set-Aside (Refer to RFP Section 4.4.2.2 for more information.)	Status <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Entire Contract <input type="checkbox"/> Partial Contract <input type="checkbox"/> Subcontracting Only	Category <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III
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RFP Issued By

State of New Jersey
Department of the Treasury
Division of Purchase and Property
Trenton, New Jersey 08625-0230

Using Agency/Agencies

State of New Jersey
Distribution & Support Services
1620 Stuyvesant Ave.
W. Trenton, NJ 08625

Date: 01/25/06

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1.0 INFORMATION FOR BIDDERS

1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury on behalf of Distribution & Support Services. The purpose of this RFP is to solicit bid proposals for 4 oz. and 6 oz. various frozen juices.

The intent of this RFP is to award (a) contract(s) to that (those) responsible bidder(s) whose bid proposals, conforming to this RFP is (are) most advantageous to the State, price and other factors considered. However, the State reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Director to be in the State's best interest.

The NJ Standard Terms & Conditions will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFP and should be read in conjunction with them unless the RFP specifically indicates otherwise.

1.2 BACKGROUND

This is a reprourement of the **Foods: Juices, Frozen, - DSS** term contract, presently due to expire on **03/14/06**. Bidders who are interested in the current contract specifications and pricing information may review the current contract T-0021 at

<http://www.state.nj.us/treasury/purchase/contracts.htm>.

It is also important to note that the length of time for this reprourement has been increased to nine (9) months compared to the current contract of six (6) months.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The Purchase Bureau will accept questions and inquiries from all potential bidders electronically via web form. To submit a question, please go to Current Bid Opportunities webpage or to <http://ebid.nj.gov/QA.aspx>

Questions should be directly tied to the RFP and asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

Bidders are not to contact the Using Agency directly, in person, by telephone or by email, concerning this RFP.

The cut-off date for electronic questions and inquiries relating to this RFP is indicated on the cover sheet. Addenda to this RFP, if any, will be posted on the Purchase Bureau website after the cut-off date (see Section 1.4.1. of this RFP for further information.)

1.3.2 SUBMISSION OF BID PROPOSAL

In order to be considered for award, the bid proposal must be received by the Purchase Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY BID PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL**

BE REJECTED. THE DATE AND TIME IS INDICATED ON THE COVER SHEET. THE LOCATION IS AS FOLLOWS:

**BID RECEIVING ROOM - 9TH FLOOR
PURCHASE BUREAU
DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230**

**Directions to the Purchase Bureau can be found at the following web address:
<http://www.state.nj.us/treasury/purchase/directions.shtml>**

Note: Bidders using USPS Regular or Express mail services should allow additional time since USPS mail deliveries are not delivered directly to the Purchase Bureau.

1.4 ADDITIONAL INFORMATION

1.4.1 ADDENDA: REVISIONS TO THIS RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

ALL RFP ADDENDA WILL BE ISSUED ON THE DIVISION OF PURCHASE AND PROPERTY WEB SITE. TO ACCESS ADDENDA, SELECT THE BID NUMBER ON THE BIDDING OPPORTUNITIES WEB PAGE AT THE FOLLOWING ADDRESS:

<HTTP://WWW.STATE.NJ.US/TREASURY/PURCHASE/BID/SUMMARY/BID.SHTML>

There are no designated dates for release of addenda. Therefore interested bidders should check the Purchase Bureau "Bidding Opportunities" website on a daily basis from time of RFP issuance through bid opening.

It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.

1.4.2 BIDDER RESPONSIBILITY

The bidder assumes sole responsibility for the complete effort required in submitting a bid proposal in response to this RFP. No special consideration will be given after bid proposals are opened because of a bidder's failure to be knowledgeable as to all of the requirements of this RFP.

1.4.3 COST LIABILITY

The State assumes no responsibility and bears no liability for costs incurred by a bidder in the preparation and submittal of a bid proposal in response to this RFP.

1.4.4 CONTENTS OF BID PROPOSAL

Subsequent to bid opening, all information submitted by bidders in response to the bid solicitation is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law. A bidder may designate specific information as not subject to disclosure when the bidder has a good faith

legal/factual basis for such assertion. The State reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter. **The State will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.**

All bid proposals, with the exception of information determined by the State to be proprietary, are available for public inspection.

Interested parties can make an appointment with the Purchase Bureau to inspect bid proposals received in response to this RFP.

1.4.5 PRICE ALTERATION

Bid prices must be typed or written in ink. Any price change (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award from being made to the bidder.

1.4.6 JOINT VENTURE

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Disclosure of Investigations and Actions Involving Bidder, Affirmative Action Employee Information Report, MacBride Principles Certification, and Business Registration or Interim Registration must be supplied for each party to a joint venture.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

The following definitions will be part of any contract awarded or order placed as result of this RFP.

Addendum - Written clarification or revision to this RFP issued by the Purchase Bureau.

Amendment - A change in the scope of work to be performed by the contractor after contract award. An amendment is not effective until signed by the Director, Division of Purchase and Property or his/her designee.

Bidder – A vendor submitting a bid proposal in response to this RFP.

Contract - This RFP, any addendum to this RFP, the bidder's bid proposal submitted in response to this RFP and the Division's Notice of Acceptance.

Contractor - The contractor is the bidder awarded a contract.

Director - Director, Division of Purchase and Property, Department of the Treasury. By statutory authority, the Director is the chief contracting officer for the State of New Jersey.

Division - The Division of Purchase and Property.

Joint Venture – A business undertaking by two or more entities to share risk and responsibility for a specific project.

May - Denotes that which is permissible, but not mandatory.

Request for Proposal (RFP) - This document, which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of [the] Using Agency[ies], as identified herein.

Shall or Must - Denotes that which is a mandatory requirement.

Should - Denotes that which is recommended, but not mandatory.

State - State of New Jersey

Using Agency[ies]- The entity[ies] for which the Division has issued this RFP.

2.2 CONTRACT SPECIFIC DEFINITIONS

DSS – Distribution & Support Services

QAL – Quality Assurance Lab at DSS

ARO – After receipt of purchase order.

3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

3.1 BREAKDOWN OF RFP

This solicitation consists of two (2) sections.

Section "A" contains line items #00001 thru #00010 for delivery to Distribution and Support Services (DSS) in combined truckloads of 1380 cases.

Section "B" contains line items #00011 thru #00014 for delivery to Distribution and Support Services (DSS) in combined truckloads of 1100 cases.

All line items within a section are grouped as "**all or none**". Therefore, bidders must be all items within a section to qualify for consideration.

3.2 DELIVERY / ARO REQUIREMENTS

All deliveries shall be no later than **fourteen (14) days ARO** (after receipt of order). The bidder is to specify delivery time on the appropriate line on the Signatory Page of the RFP. Delivery time must be shown as days or weeks. Delivery time shown as "at once" or "as requested" will not be considered.

All products to be delivered F.O.B. State of New Jersey, Distribution & Support Services (DSS), 1620 Stuyveant Ave., W. Trenton, New Jersey, 08625.

3.3 METHOD OF OPERATION

Section "A" (Line items #00001 thru #00010)

Orders will be placed by DSS in combined minimum quantity of 1380 cases for delivery to Distribution & Support Services. Purchase orders will be faxed to vendors in advance. Original purchase orders, including payment vouchers will be mailed to the vendor. Payment vouchers must be submitted to DSS Accounts Payable for payment.

Section "B" (Line items #00011 thru #00014)

Orders will be placed by DSS in combined minimum quantity of 1100 cases for delivery to Distribution & Support Services. Purchase orders will be faxed to vendors in advance. Original purchase orders, including payment vouchers will be mailed to the vendor. Payment vouchers must be submitted to DSS Accounts Payable for payment.

3.4 REQUIREMENTS

Individually packed frozen 4 oz. juices must contain no added preservative and be packaged in plastic containers with hermetically sealed lids.

Case packaging for 4 oz. juices will be 96 / 4 oz. cups per case.

All containers shall be free from dirt, grit and any other unsanitary conditions.

All individually packed frozen 4 oz. juices must be delivered in a frozen state by a refrigerated truck with operable refrigeration unit capable of holding product in required frozen state. Required frozen state is defined as solid or semi-solid product with temperature determined, by probe, to be 29 degrees "f" or below with no evidence of prior thaw and refreeze. Failure of product to comply with this requirement will be cause for rejection of product at contractors'

expense. These maximum temperature limits must be adhered to without exception on every delivery.

All boxes of individually packed frozen 4 oz. juices must be clean and free from dirt, evidence of leakage, spillage or any other unsanitary condition.

All deliveries will be randomly checked and observed by DSS quality assurance dock inspector for obvious evidence of leakage or spillage in any box. Evidence of leakage or spillage which exhibits unsanitary condition in any box will be grounds for rejection of that box at contractors' expense. Excessive or repeated rejection will be cause for cancellation of contract for poor performance.

Microbiological data:

All products offered must comply with the following requirements:

yeast count - <(less than) 10 colony forming units (cfu) per milliliter of juice.

mold count - <(less than) 10 colony forming units (cfu) per milliliter of juice.

3.5 CERTIFICATIONS

All juices are to be produced under USDA in plant on line inspection only, to be indicated by proper USDA shield on each individual container lid.

All individual 4 oz. containers are to contain proper USDA shield to indicate grade (where applicable) and required in plant on line inspection in accordance with the Code of Federal Regulations Title 7, Part 52.53 available through the Food & Drug Administration (FDA) as follows:

Orange juice - shield from figure #5 shall appear on lid of each individual container.

Apple juice - shield from figure #8 shall appear on lid of each individual container.

Fruit punch - shield from figure #8 shall appear on lid of each individual container.

Grapefruit - shield from figure #5 shall appear on lid of each individual container.

Prune - shield from figure #8 shall appear on lid of each individual container.

Grape - shield from figure #8 shall appear on lid of each individual container.

Cranberry - shield from figure #8 shall appear on lid of each individual container.

Orange/pineapple - shield from figure #8 shall appear on lid of each individual container.

Pineapple - shield from figure #5 shall appear on lid of each individual container.

Orange/grapefruit - shield from figure #5 shall appear on lid of each individual container.

Juices produced under continuous inspection are acceptable and must have shield from figures #1 thru #4 on the lid of each individual container.

Juices produced under lot inspection are not acceptable.

3.6 CARTON (CASE) MARKING REQUIREMENT

Shipping cartons shall be marked in accordance with Federal Standard No. 123F as amended, and as modified by these terms and conditions.

All cartons must be plainly marked on any two sides, so that palletized cartons can be easily identified. As a minimum the following must be included:

Contents (item description)

State contract number

Cartons must comply with this requirement at time of delivery. No post delivery marking of cartons will be permitted at DSS.

3.7 DELIVERIES

All truck deliveries must either arrive on 48" x 40" a.g.a. pallets (or equal) in good condition or be transferred to distribution center pallets before delivery will be accepted. Pallet exchange is available.

All deliveries must be completely unloaded and accepted by 3 p.m. Positively no deliveries will be accepted after 3 p.m.

Once started, the unloading process may not extend beyond a four (4) hour time period due to palletization, re-palletization or re-working of pallets for removal of damaged goods. Partial acceptance or partial rejection may result after stated four (4) hour unloading period has expired.

Segregation of product is required.

Itemized packing list must accompany all shipments.

All rejected deliveries must be replaced within three (3) working days without fail. Repeated rejections for any reason will not be tolerated, and will be cause for cancellation of contract.

3.8 FROZEN 6 OZ. JUICES

Individually packed frozen 6 oz. juices must contain no added preservatives and be packaged in plastic containers with hermetically sealed lids.

Case packaging for 6 oz. juices will be 48 / 6 oz. cups per case.

USDA shielding requirements do not apply to the 6 oz. frozen juices.

All 6 oz. containers shall be free from dirt, grit and any other sanitary conditions.

All individually packed frozen 6 oz. juices must be delivered in a frozen state by a refrigerated truck with operable refrigeration unit capable of holding product in required frozen state. Required frozen state is defined as solid or semi solid product with temperature, determined by

probe, to be 29 degrees "F" or below with no evidence of prior thaw and refreeze. Failure of product to comply with this requirement will be cause for rejection of product at contractor's expense and replacement of acceptable product within seventy-two (72) hours. These maximum temperature limits must be strictly adhered to without exception on delivery.

All case boxes of 6 oz. juices must be clean and free from dirt, evidence of leaking, spillage or any other unsanitary condition.

Minimum combined order for all 4 flavors of 6 oz. frozen juices will be 1,100 cases FOB destination.

3.9 SPECIAL INSTRUCTIONS

From time to time, DSS may issue special shipping instructions to contractors which will supersede the basic requirements listed above. These special instructions will be relayed to the contractor at the time that order is place and may affect block patterns of carton markings.

Contractors are not to combine deliveries of items with various scheduled delivery dates, unless authorized by DSS.

Contractors who combine shipments without proper authorization, if accepted, will be assessed the difference in freight charges between separate shipments and combined shipments.

Any monies due the State will be deducted from the contractor's payment.

This request for bid proposal/contract involves items which are necessary for the continuation of ongoing critical state services. Any delay in delivery of these items would disrupt State services and would force the state immediately to seek alternative sources of supply on an emergency basis. Timely delivery is therefore critical to meeting the State's needs.

If there have been any late delivery complaints against your firm within the last calendar year, the bidder may be required to submit a letter with your bid documenting the steps you have taken to improve your deliveries on future contracts.

If the bidder fails to document these corrective steps, or if the proposed corrective steps are deemed unsatisfactory, the submitted bid may be considered non-responsive and may be rejected.

If circumstances beyond the control of the contractor may possibly result in a late delivery, it is the responsibility of the contractor to immediately make the details known to DSS in writing: DSS, P.O. Box 234, West Trenton, New Jersey 08625; Fax: (609) 530-4582. DSS reserves the right to cancel all or part of any such order and purchase the item or items elsewhere, charging any price increase to the contractor.

Damaged Goods Upon Delivery: Shipments containing damaged goods may be either partially accepted by DSS (with damaged goods rejected) or totally rejected depending on the severity of the damage. The carrier truck driver will bear sole responsibility for any "re-working" of palletized damaged goods for the removal of any damaged goods from acceptable goods. The State will not be responsible for any additional costs associated with this procedure. This will apply to all carriers and all deliveries. It is the responsibility of the contractor to communicate these requirements to the carriers it employs for deliveries to DSS.

The contractor shall provide, for each delivery, a packing slip showing the items being delivered and the assigned purchase order number. When a contractor delivers to DSS, it shall obtain

proof of delivery signed by an authorized employee of the receiving unit. This proof of delivery must accompany the contractor's invoice submitted for payment.

Prices submitted shall be net, FOB Destination and be subject to no increase during the period of the contract. Escalation clauses are not acceptable.

All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to insure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. All deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by DSS at the contractor's expense.

All products are subject to final acceptance at point of delivery. Rejected shipments are the responsibility of the contractor and must be removed from DSS's premises at contractor expense.

All items will be ordered by DSS. Purchase orders issued by DSS will establish delivery dates which will allow bidders a maximum of contractor's submitted ARO (after receiving order) to make delivery. Contractors will receive Purchase Orders from and submit invoices for payment to DSS for all purchase deliveries from these contracts.

Contractor carrier personnel shall be subject to and shall comply with all security regulations and procedures for DSS.

Any substitution must be approved by DSS with a minimum of seventy-two (72) hours prior to any delivery attempt. Any non-approved substitutions will be rejected upon delivery at the contractor's expense.

Bidders must indicate packaging where requested in bid line item descriptions. Deliveries must be made in packaging as awarded and may not be substituted without prior approval by DSS.

If deliveries cannot be affected within the stated time after receipt of order, DSS shall be advised immediately to permit purchase from another source. There will be no backordering, except upon specific approval from the DSS.

Brands delivered must be strictly in accordance with those bid upon and awarded.

4.0 Bid PROPOSAL PREPARATION AND SUBMISSION

4.1 GENERAL

The bidder is advised to thoroughly read and follow all instructions contained in this RFP, including the instructions on the RFP's signatory page, in preparing and submitting its bid proposal.

4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP signatory page <http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. **State regulation mandates that late bid proposals are ineligible for consideration. THE EXTERIOR OF ALL BID PROPOSAL PACKAGES ARE TO BE LABELED WITH THE BID IDENTIFICATION NUMBER AND THE FINAL BID OPENING DATE OR RISK NOT BEING RECEIVED IN TIME.**

4.3 NUMBER OF BID PROPOSAL COPIES

The bidder must submit **one (1) complete ORIGINAL bid proposal**, clearly marked as the "ORIGINAL" bid proposal. The bidder should submit **one (1) full, complete and exact copy** of the original. The copies requested are necessary in the evaluation of the bid proposal. A bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. It is suggested that the bidder make and retain a copy of its bid proposal.

4.4 BID PROPOSAL CONTENT

4.4.1 FORMS THAT MUST BE SUBMITTED WITH BID PROPOSAL

4.4.1.1 SIGNATORY PAGE

The bidder shall complete and submit the Signatory page provided on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>. The Signatory page shall be signed by an authorized representative of the bidder. If the bidder is a limited partnership, the Signatory page must be signed by a general partner. If the bidder is a joint venture, the Signatory page must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the bid proposal.

4.4.1.2 OWNERSHIP DISCLOSURE FORM

In the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the bid proposal. Failure to do so will preclude the award of a contract.

The Ownership Disclosure Form is located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>.

4.4.1.3 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. The bidder shall use the Disclosure of Investigations and Actions Involving Bidder form located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>.

4.4.2 PROOF OF REGISTRATIONS THAT MUST BE SUBMITTED WITH THE BID PROPOSAL

4.4.2.1 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE

FAILURE TO SUBMIT A COPY OF THE BIDDER'S BUSINESS REGISTRATION CERTIFICATE (OR INTERIM REGISTRATION) FROM THE DIVISION OF REVENUE WITH THE BID PROPOSAL MAY BE CAUSE FOR REJECTION OF THE BID PROPOSAL.

The bidder may go to www.nj.gov/njbgs to register with the New Jersey Division of Revenue or to obtain a copy of an existing Business Registration Certificate.

Refer to Section 1.1. of the NJ Standard Terms and Conditions located on the Advertised Solicitation, Current Bid Opportunities webpage
<http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>

4.4.3 FORMS THAT MUST BE SUBMITTED BEFORE CONTRACT AWARD AND SHOULD BE SUBMITTED WITH THE BID PROPOSAL.

4.4.3.1 MACBRIDE PRINCIPLES CERTIFICATION

The bidder is required to complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. The requirement is a precondition to entering into a State contract. The MacBride Principles Certification Form is located on the Advertised Solicitation, Current Bid Opportunities webpage:
<http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>.

4.4.3.2 AFFIRMATIVE ACTION

The bidder is required to complete the attached Affirmative Action Employee Information Report, or, in the alternative, supply either a New Jersey Affirmative Action Certificate or evidence that the bidder is operating under a federally approved or sanctioned affirmative action program. The requirement is a precondition to entering into a State contract. The Affirmative Action Forms are located on the Advertised Solicitation, Current Bid Opportunities webpage
<http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>.

4.4.4 SUBMITTALS

4.4.4.1 BIDDER EXPERIENCE - DATA SHEETS

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage:
<http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>.

4.4.4.2 SAMPLES/SAMPLE TESTING

The samples submitted must meet the specification requirements set forth in the RFP and must be representative of the product bid. Bid samples **for pricing lines #00001 thru #00014** for evaluation and testing purposes are to be made available at no charge and delivered to **DSS**, at the bidder's expense. The bidder must, within **five (5) working days** following a request from the State, submit bid samples to **DSS**. Bid samples will not be returned. The QAL Unit at DSS will conduct laboratory tests to assure that the bid samples submitted **for pricing lines #00001 thru #00014** conform to this RFP. The State reserves the right to perform any tests necessary to assure that the bid samples conform to this RFP **for pricing lines #00001 thru #00014**. The testing results of the State are final.

All individual 4 oz. and 6 oz. samples, when requested for bid evaluation, must consist of one case of each flavor, frozen to shipment requirements.

Palatability Testing

The State reserves the right to perform palatability testing of bid samples and products delivered. A test panel is appointed by the Chief, DSS. Palatability testing will be supervised and conducted by DSS' Quality Assurance Unit. The Hedonic Scale Method of measuring food preferences will be used. Testing shall be conducted in an impartial atmosphere with a panel not informed of the brand names, vendors and manufacturers until the award recommendation is approved by the Director. If the testing involves a Qualified Product (QPL) and a proposed approved equal basis product, the QPL product will be used as the basis of comparison. In the event a product bid has been determined not to comply with the bid proposal specifications, that product shall not be eligible for contract award.

4.4.4.3 NUTRITIONAL DATA SHEETS

If requested by the State, the bidder must furnish nutritional data sheets within five (5) days from notification.

4.4.4.4 PACKER AND BRAND INFORMATION:

The contractor shall supply the following if applicable:

- Brand
- Model and/or Product Number
- Packer and/or Processor
- Season Pack
- U.S.D.A. Plant Number
- Any information required on the price line sheets

Failure to supply this information may be cause for bid proposal rejection. Phrases such as "various packers" or "and others" or names of countries will not be acceptable and will be cause for bid proposal rejection.

4.4.5 FINANCIAL CAPABILITY OF THE BIDDER

Upon request, in order to provide the State with the ability to judge the bidder's financial capacity and capabilities to undertake and successfully complete the contract, the bidder should submit two years of certified financial statements that include a balance sheet, income statement and statement of cash flow, and all applicable notes for the most recent calendar year or the bidder's most recent fiscal year. If certified financial statements are not available, the bidder should provide either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statements, together with a certification from the Chief Executive Officer and the Chief Financial Officer, that the financial statements and

other information included in the statements fairly present in all material respects the financial condition, results of operations and cash flows of the bidder as of, and for, the periods presented in the statements. In addition, the bidder should submit a bank reference.

The bidder may designate specific financial information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The bidder may submit specific financial documents in a separate, sealed package clearly marked "Confidential-Financial Information" along with its Bid Proposal.

The State reserves the right to make the determination whether to accept the bidder's assertion of confidentiality and will advise the bidder accordingly.

4.4.6 PRICING

The bidder must submit its pricing using the format set forth in the State supplied price sheet(s) attached to this RFP. Failure to submit all information required will result in the bid being considered non-responsive.

Each bidder is required to hold its prices firm for a period of ninety (90) days. Every effort will be made to award the contract prior to the time period set forth above.

4.4.7 METHOD OF BIDDING / PRICE SHEETING INSTRUCTIONS

Each section of line items stated in this RFP is an "all or none" award. Bidders are not required to bid on all sections but must bid all line items within each section to qualify for consideration for that section. Section A consists of line items #00001 thru #00010. Section B consists of line items #00011 thru #00014.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addendum to this RFP, the contractor's bid proposal and the Division's Notice of Award.

Unless specifically stated within this RFP, the Special Contractual Terms and Conditions of the RFP take precedence over the NJ Standard Terms and Conditions located on the Advertised Solicitation, Current Bid Opportunities webpage:

<http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and Conditions and the NJ Standard Terms and Conditions, and any Addendum to this RFP, the Addendum shall govern.

In the event of a conflict between the provisions of this RFP, including any Addendum to this RFP, and the bidder's bid proposal, the RFP and/or the Addendum shall govern.

5.2 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of **nine (9) months**. The anticipated "Contract Effective Date" is provided on the signatory page of this RFP:

<http://www.state.nj.us/treasury/purchase/bid/summary/06x38510.shtml>. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract. The contract may be extended for all or part of **two (2) – nine (9) month** periods, by the mutual written consent of the contractor and the Director. **Purchase orders may be placed against the contract up to and including the end of business on the last day of the contract, for delivery no more than 45 days after contract expiration.**

5.3 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than **ninety (90) days** beyond the expiration date of the contract.

5.4 CONTRACT AMENDMENT

Any changes or modifications to the terms of the contract shall be valid only when they have been reduced to writing and signed by the contractor and the Director.

5.5 ITEMS ORDERED AND DELIVERED

DSS is authorized to order and **the contractor/contractors is/are** authorized to ship only those items covered by the contracts resulting from this RFP. If a review of orders placed by DSS reveals that material other than that covered by the contract has been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or as a basis not to award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items

returned by the Agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price.

The contract involves items which are necessary for the continuation of ongoing critical State services. Any delay in delivery of these items would disrupt State services and would force the State to immediately seek alternative sources of supply on an emergency basis. Timely delivery is critical to meeting the State's ongoing needs.

5.6 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS

In the event that the contractor fails to comply with any material contract requirements, the Director may take steps to terminate the contract in accordance with the State administrative code and/or authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor.

5.7 MANUFACTURING/PACKAGING REQUIREMENTS

5.7.1 All products must conform in every respect to the standards and regulations established by Federal and New Jersey State laws.

5.7.2 All products shall be manufactured and packaged under modern sanitary conditions in accordance with federal and state law and standard industry practice.

5.7.3 All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to ensure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by DSS at the contractor's expense.

5.8 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1.1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

6.0 PROPOSAL EVALUATION/CONTRACT AWARD

6.1 CONTRACT EVALUATION

The following criteria will be used to evaluate the bid proposal submitted in response to this RFP. The criteria are not listed in order of importance:

6.1.1 Price

6.1.2 Experience of the bidder

6.1.3 The bidder's past performance under similar contracts, including if applicable, the Division's vendor performance database.

6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

Prior to contract award and with the exception of scheduling a review of submitted bids, unless requested by the State, contact with the State is limited to status inquiries only and such inquiries are only to be directed to the buyer. Any further contact or information about the proposal with the buyer or any other State official connected with the solicitation will be considered an impermissible supplementation of the bidder's bid proposal.

The bidder may be required to give an oral presentation to the State concerning its bid proposal. The State may also require the bidder to submit written responses to questions regarding its bid proposal.

The purpose of such communication with the bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by their competitors.

It is within the State's discretion whether to require the bidder to give an oral presentation or require the bidder to submit written responses to questions regarding its bid proposal. Action by the State in this regard should not be construed to imply acceptance or rejection of a bid proposal. The Purchase Bureau buyer will be the sole point of contact regarding any request for an oral presentation or clarification.

6.3 BID DISCREPANCIES

In evaluating bids:

- Discrepancies between words and figures will be resolved in favor of words.
- Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices.
- Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices.
- Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total.
- Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the corrected sum of the column of figures.

6.4 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

Following the opening of bid proposals, the State reserves the right, pursuant to N.J.S.A. 52:34-12(f), to negotiate: the technical services offered, the terms and conditions and/or the price of a proposed contract award with any bidder and reserves the right to seek a Best and Final Offer (BAFO) from one or more bidders. In response to the State's request to negotiate, the bidder must continue to satisfy all mandatory RFP requirements but may improve upon its original technical proposal in any revised technical proposal. However, any revised technical proposal that does not continue to satisfy all mandatory requirements will be rejected as non-responsive and the original technical proposal will be used for any further evaluation purposes, in accordance with the following procedure:

The State will conduct an initial review and determine whether and with which bidder(s) it will negotiate, and will communicate its request to each such bidder. In response, the bidder will submit any required revisions to its proposal.

In response to the State's request for a BAFO, the bidder may submit a revised price proposal that is equal to or lower in price than its original submission, but must continue to satisfy all mandatory requirements.

After receipt of the results of the negotiation and/or the BAFO(s), the Evaluation Committee will complete its evaluation and recommend to the Director for award that responsible bidder(s) whose bid proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered.

All contacts, records of initial evaluations, any correspondence with bidders related to any request for negotiation or BAFO, any revised technical and/or price proposals, the State's evaluation and the Award Recommendation, will remain confidential until an Intent to Award notice is issued.

7.0 CONTRACT AWARD

7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD

7.1.1 REQUIREMENTS OF N.J.S.A. 19:44A-20.13-25 (FORMERLY EXECUTIVE ORDER 134)

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the negotiation and award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, the Legislature enacted N.J.S.A. 19:44A-20.13 – 25 on March 22, 2005 the “Legislation”), retroactive to October 15, 2004, superseding the terms of Executive Order 134. Pursuant to the requirements of the Legislation, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

7.1.1.1 DEFINITIONS

For the purpose of this section, the following shall be defined as follows:

a) Contribution – means a contribution reportable as a recipient under “The New Jersey Campaign Contributions and Expenditures Reporting Act.” P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.

b) Business Entity – means any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. The definition of a business entity includes (i)all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate; (ii)any subsidiaries directly or indirectly controlled by the business entity; (iii)any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv)if a business entity is a natural person, that person's spouse or child, residing in the same household.

7.1.1.2 BREACH OF TERMS OF THE LEGISLATION

It shall be a breach of the terms of the contract for the Business Entity to (i)make or solicit a contribution in violation of the Legislation, (ii)knowingly conceal or misrepresent a contribution given or received; (iii)make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv)make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v)engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation; (vi)fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii)engage in any exchange of contributions to circumvent the intent of the Legislation; or (viii)directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

7.1.1.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

- a) The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State or county political party committee during certain specified time periods
- b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by the Legislation have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134> , shall be provided to the intended awardee for completion and submission to the Purchase Bureau with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Purchase Bureau Buyer, the Certification and Disclosure(s) within five (5) business days of the State's request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.
- c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134> , shall be provided to the intended awardee with the Notice of Intent to Award.

7.1.1.4 STATE TREASURER REVIEW

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the contractor. If the State Treasurer determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation, the State Treasurer shall disqualify the Business Entity from award of such contract.

7.2 FINAL CONTRACT AWARD

Each section of line items are grouped as "all or none" awards. Bidders are not required to bid on all sections but must bid on all line items within a section to qualify for consideration. Award(s) will be made to the overall lowest bidder for all line items within each section.

Contract award[s] shall be made with reasonable promptness by written notice to that responsible bidder(s), whose bid proposal(s), conforming to this RFP, is(are) most advantageous to the State, price, and other factors considered. Any or all bid proposals may be rejected when the State Treasurer or the Director determines that it is in the public interest so to do.

8.0 CONTRACT ADMINISTRATION

8.1 CONTRACT MANAGER

The State Contract Manager is the State employee responsible for the overall management and administration of the contract.

The State Contract Manager for this project will be identified at the time of execution of contract. At that time, the contractor will be provided with the State Contract Manager's name, department, division, agency, address, telephone number, fax phone number, and email address.

8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

For an agency contract where only one State office uses the contract, the State Contract Manager will be responsible for engaging the contractor, assuring that Purchase Orders are issued to the contractor, directing the contractor to perform the work of the contract, approving the deliverables and approving payment vouchers. The State Contract Manager is the person that the contractor will contact **after the contract is executed** for answers to any questions and concerns about any aspect of the contract. The State Contract Manager is responsible for coordinating the use and resolving minor disputes between the contractor and any component part of the State Contract Manager's Department.

If the contract has multiple users, then the State Contract Manager shall be the central coordinator of the use of the contract for all Using Agencies, while other State employees engage and pay the contractor. All persons and agencies that use the contract must notify and coordinate the use of the contract with the State Contract Manager.

8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER

Any contract user that is unable to resolve disputes with a contractor shall refer those disputes to the State Contract Manager for resolution. Any questions related to performance of the work of the contract by contract users shall be directed to the State Contract Manager. The contractor may contact the State Contract Manager if the contractor can not resolve a dispute with contract users.